

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ANDRE LIVINGSTON</b>  <b>v.</b>  <b>LT. JOHN DOE APPEL, et al.</b>	<b>CIVIL ACTION</b>  <b>NO. 11-2764</b>
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Baylson, J.

July 21, 2015

**MEMORANDUM AND ORDER GRATING MOTION TO DISMISS**

In prior Orders in this case, the Court has set forth the procedural history including the fact that plaintiff, appearing *pro se*, was unsuccessful in attracting any lawyer who is a member of this Court's prisoner civil rights litigation panel, to accept his case (ECF 23). Defendants had previously moved to dismiss the case or for summary judgment for failure to exhaust administrative remedies (ECF 8). Plaintiff has filed an amended complaint (ECF 35) and defendants again moved to dismiss or seek summary judgment (ECF 36, 37). Plaintiff has filed a number of responses, however inaccurately characterized (see ECF 38, 41-42). However, plaintiff has, despite given numerous chances, completely failed to respond to the merits of defendants' pending motions, particularly on the issue of exhaustion of administrative remedies which is a requirement of the Prison Litigation Reform Act. Plaintiff keeps trying to add additional parties (ECF 41) but does not present any appropriate allegations to warrant the Court to grant this relief (see ECF 34). On this record, plaintiff does not dispute defendants' well-articulated legal position that plaintiff failed to exhaust his administrative remedies. Plaintiff has been given numerous chances, but the case has reached a point where the defendants are entitled to a resolution on the issue of exhaustion.

**AND NOW**, this 21<sup>st</sup> day of July, 2015, upon consideration of the motions of defendants for summary judgment for failure to exhaust administrative Remedies, and any response thereto,

it is **ORDERED** that the motion is **GRANTED**. Summary Judgment is **GRANTED** in favor of defendants. Plaintiff's complaint is **DISMISSED**. The Clerk shall close this case.

**BY THE COURT:**

**/s/ Michael M. Baylson**

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**MICHAEL M. BAYLSON, U.S.D.J.**